

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

United States District Court
Southern District of Texas
FILED

MAR 04 2013

AKP

David J. Bradley, Clerk
Laredo Division

JESUS FLORES-RIVERA,)	
Plaintiff,)	
)	Civil Case No. 5:13-CV-38
V.)	Judge:
)	
)	
CUSTOMS AND BORDER PROTECTION)	COMPLAINT FOR DAMAGES.
OFFICERS-1-100,)	
Defendant.)	

Jesus Flores-Rivera, pro se, and for his cause of action, states the following:

1. The plaintiff is an incarcerated inmate confined at the Giles W. Dalby Correctional Facility in Post, Texas.

2. Defendant mentined above was, at all time relevant hereto, U.S. Border Patrol Agent, with his official duty Station at Laredo Texas.

3. This court has jurisdiction of this matter by virtue of 28 U.S.C. 1331 and bivens V.Six UNKNOWN Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). Venue is Vested by Virtue of the provisions of 28 U.S.C. 1391 (b) (2) because it is where the even giving rise to this claim occurred.

4. This court has jurisdiction of his metter in that the case of action involves federal officials acting under color of lagal authority.

5. Plaintiff seeks declaratory relief pursuant to 28 U.S.C. § 2201 and 2202; injunctive relief authorized by 28 U.S.C. § 2283-84 and Rule 65 of the Federal Rules of civil Procedure.

COUNT I.

6. Plaintiff realleges the allegations contained in paragraph 1 through 4 of the jurisdiction Statements as though the same were fully set forth herein.

7. On May 20, 2011, Defendants and each of them, did combine, conspire, and confederate together and with divers other, the identity of whom are unknown to plaintiff, to assault plaintiff, in violating of his constitutional rights.

8. At all times relevant hereto, Defendant knew or should have known that plaintiff possessed the right of freedom of cruel and unusual punishment. The Defendant and each of them did, with bad purpose and evil motive, embark upon a campaigning of reprisal by assaulting plaintiff when he voluntarily intended to submit under apprehension.

9. It was the object of the conspiracy by the Defendants to assault Plaintiff because of the fact that he had entered illegally into the United States, and because he sought redress his failure by returning voluntarily, and because he was an alien.

10. At all times relevant hereto, Defendants, and each of them, in discharging their discretionary duties were acting under color of law, and in furtherance of the conspiracy, did commit the

following acts, to wit:

A. On May 20, 2011, Plaintiff while traveling on a motor vehicle in the County of Laredo was pulled over by Customs and Border Protection (CBP) officers Defendant DOE-1. Thereafter, Defendant DOE-1 approached the Vehicle. After being questioned by Defendant DOE-1, Plaintiff was sprayed on his eyes with gas. Thereafter, Defendant DOE-1: a) falsely determined and accused Plaintiff of being a danger member; and b) alleged that upon the stop of the vehicle Plaintiff unsuccessfully attempted to flee while traveling on the vehicle.

B. Plaintiff denies to attempt to evade the authorities once the car was apprehended. Plaintiff is informed and believes that such version was wrongfully, intentionally and illegally construed by Defendant DOE-1, who thereafter knowingly and falsely accused plaintiff of attempting to flee.

C. Plaintiff was thereafter taken into custody and incarcerated by Defendant. Plaintiff is informed and believes that Defendant falsely stated in the subject report that Plaintiff attempted evade Defendant.

CAUSE OF ACTION

11. Plaintiff repeats, realleges each and every allegation of paragraphs 1 through 10 above as though fully set forth herein.

12. At all times relevant hereto, plaintiff possessed the right, guaranteed by the Fourth Amendment of the United States constitution, to be free from unreasonable use of force by USBP agents acting under the color of law.

13. As described above, Defendant, and each of them, violated Plaintiff's Fourth Amendment rights by aggressively spraying on his eyes and by unlawfully deliberate indifference to serious medical needs that deprived him of medically necessary health treatment and by thereafter falsifying the reports as they pertained to Plaintiff's arrest. In doing these things, said Defendants and each of them, acted specifically with the intent to deprive Plaintiff of his constitutional right under the Fourth Amendment to be free from unlawfully and unreasonable aggressive arrest and excessive use of force. Said Defendants subjected Plaintiff to the aforementioned deprivations by either actual malice, deliberate indifference or a reckless disregard of his right under the constitution. Said Defendant acted at all times herein knowing full well that the established practices, customs, procedures and policies of the USBP would allow a cover-up and allow the continued violation of the Fourth Amendment of the constitution of the United States.

14. On the date of Plaintiff having been subject to the illegal aggressive arrest with excessive use of force and seizure activity by the USBP agents as indicated above, Defendant DOE1-100, acting within the course and scope of their duties as peace officers of the USBP, deprived Plaintiff of his rights to be free from unreasonable and illegal aggressive and excessive use of force as delineated herein above, and thereafter in violation of Plaintiff's due process rights proceeded to illegally falsify evidence, submit false reports and offer perjurious testimony so as to ensure that Plaintiff would be wrongfully charged.

15. At the time of these constitutional violations by Defendant DOE- 1-100, USBP had in place, and ratified Customs and practices which permitted and encouraged their agents to unjustifiably, unreasonably and in violation of the Fourth Amendment, to unlawfully arrest persons without probable cause, to commit random and wanton acts of planting evidence, falsify reports and present perjured testimonies to ensure the wrongful conviction of persons.

16. As a direct and proximate result of the aforementioned acts of said Defendants, Plaintiff suffered the violation of his constitutional rights as described above. As the further actual and proximate result of the acts and omissions of said defendants, as described herein, Plaintiff was made to suffer and sustain physical injury and continues to suffer, severe emotional and

psychological pain, suffering, anxiety, depression, anguish, shock, and fear, and loss of past and future income and business opportunity.

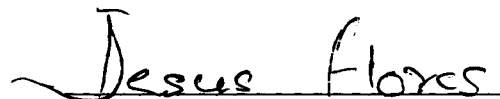
17. The aforementioned acts of said Defendants were willful, wanton, malicious and oppressive thereby justifying the awarding of exemplary, and punitive damages as to said Defendants.

Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. A declaration that the acts and omission described herein violated Plaintiff's rights under the constitution and law of the United States;
2. Compensatory damages in the amount of \$ 10,000,00 against each defendant, jointly and severally;
3. Exemplary and punitive damages in an amount of \$ 5,000,000, 00 against each defendant;
4. A jury trial on issues triable by jury;
5. Interest as allowed by law;
6. Attorney's fees as allowed by code;
7. Plaintiff's costs of suit incurred herein;
8. Such other and further relief as may be just, proper, and equitable.

DATE: This 28th day of Febraury 2013.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jesus Flores". The signature is written in dark ink and is positioned above a horizontal line.

Jesus Flores-Rivera
Reg. No. 08602-023
Giles W. Dalby C.F.
805 North Avenue F.
Post, Tx. 79356

VERIFACATION.

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matter alleged and information and belief, and as to those, I believes them to be true. I certify under penalty of century that the foregoing is true and correct.

DATE This 28th day of Febraury 2013.

Respectfully Submitted,

Jesus Flores

Jesus Flores-Rivera

Reg. No.08602-023

Giles W. Dalby C.F.

805 North Avenue F.

Post, Tx. 79356

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L E G A L M A I L

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VACANT, DEPUTY-IN-CHARGE
319 FEDERAL BLDG.
1300 VICTORIA ST,
LAREDO, TX 78040-5016

